

1 Q. Now, with respect to the first
2 sentence or the first request for information,
3 basically it asks Business Operations, Inc. to
4 describe its corporate structure, including a
5 description of each subsidiary or affiliate
6 identified, and also asks for a list of the
7 officers and directors of each affiliated entity
8 and to provide relevant documents. And the
9 response that appears is that Business Options
10 was incorporated in the State of Illinois on
11 March 15, 1992; the company is privately held and
12 does not own any property in any state. And it
13 lists yourself and your brother Keanan as owners
14 and as officers. And it also suggests or
15 indicates that both of you were directors -- you
16 being COB, which we understood to be chairman of
17 the board, and then your brother is also noted as
18 being a director. Do you have any knowledge as
19 to how it was that Miss Dennie came to provide
20 the information that appears here in Business
21 Options response to number one?

1 A. I don't want to speculate; I don't
2 know. Can I see your copy?

3 MR. HAWA: Here, this is the
4 attachment.

5 WITNESS: Okay.

6 BY MR. SHOOK:

7 Q. Did you just want to make sure we are
8 looking at the same thing?

9 A. This has got the ownership incorrect
10 again.

11 Q. Okay. So in terms of the ownership as
12 of December, 2002, you were -- let me see if I am
13 remembering this right -- 72 percent owner, and
14 your brother was 26 percent?

15 A. Yes.

16 Q. Okay. So from what you have told me,
17 I take it you have no explanation as to why it is
18 that this information is erroneous.

19 A. Well, my explanation would be that it
20 did not give the proper significance to a request
21 by the Federal Communications Commission. We did

1 not have the importance in mind when responding
2 to this. I think I did see her responses, but I
3 don't thing that I ever compared them to what was
4 actually being requested. It says that Business
5 Options, Inc. was incorporated in the State of
6 Illinois, and that looked okay to me, so I don't
7 know about not owning any property in any state.
8 That's what it says.

9 Q. Okay.

10 A. Number two, certificate of authority
11 from the State of Illinois is attached. Well,
12 okay, if you are just reading this document by
13 itself, "Okay, great, it's attached." If you are
14 comparing it to what is requested, then it's
15 just -- well, certainly not what I would hope we
16 would ever send in the future.

17 Q. Right. Well, as far as that goes,
18 request number two was asking for evidence that
19 Business Options, Inc. had complied with the
20 registration requirements pursuant to 47-- CFR,
21 Section 67.1195 --

1 A. Which I did not compare.

2 Q. -- suggests that it is a federal
3 requirement as opposed to something from the
4 State of Illinois?

5 A. Right.

6 Q. So I take it from what you are saying,
7 then, is at the time that you looked at the
8 responses that Miss Dennie had prepared, you did
9 not compare that response with the incoming from
10 the FCC to see whether or not the questions were
11 actually answered.

12 A. Exactly.

13 Q. Now, with respect to question number
14 three, do you recall any discussion with Miss
15 Dennie in terms of how it is that the answer that
16 appears in Business Options' response was
17 prepared and whether or not that answer was
18 accurate?

19 A. Let me take a look here.

20 Q. Sure.

21 MR. HAWA: While you are looking at

1 those, I am not sure if this is something you
2 want to respond to, but the question asks -- the
3 long and short of it is, did you change preferred
4 carrier as specified in the complaint and
5 Attachment A? Well, in Attachment A, there are
6 no complaints specifying anything. It's just a
7 list of customers. How are you reading that?

8 MR. SHOOK: Well, I think a fair
9 reading of it for, you know, purposes of
10 discussion would be that with respect to the
11 persons who are names there -- those 20 names --
12 I didn't count them, but I would say roughly 20
13 names -- had their phone service -- their
14 long-distance phone service to those individuals
15 changed after April 1 --

16 MR. HAWA: As specified in their
17 complaint?

18 MR. SHOOK: -- after April 1, 2002, to
19 Business Options?

20 MR. HAWA: You are saying that's a
21 fair reading?

1 MR. SHOOK: I think so.

2 MR. HAWA: But it says, "as specified
3 in their complaint, did you change it." It
4 doesn't say, "Did you change their carrier."

5 MR. SHOOK: Well, in terms of number
6 three, number three is actually quite elaborate
7 in terms of the --

8 MR. HAWA: Yeah, I understand.

9 MR. SHOOK: -- the question. And it
10 breaks down a number of sub-parts, A through F.

11 MR. HAWA: I do ask that sincerely,
12 because I don't understand your question. It's a
13 list of customers, and it says, "Did you change
14 the carrier as specified in the complaint and
15 Attachment A." Attachment A doesn't specify
16 being slammed.

17 MR. SHOOK: No, it doesn't have the
18 complaints themselves. It simply indicates that
19 complaints were filed by those individuals with
20 the State of Maine.

21 MR. HAWA: So then a fair reading is,

1 did you change their carrier, as specified in
2 their complaint; meaning, did you slam them?

3 MR. SHOOK: Well, not even slam. Did
4 you simply change their -- I mean, a slam is
5 something that wouldn't necessarily -- that you
6 couldn't necessarily determine without further
7 information. The purpose of the question was
8 simply to determine whether or not Business
9 Options, Inc. would verify the fact that the
10 long-distance service of those individuals was
11 changed to Business Options, Inc. at some point
12 after April 1, 2002?

13 MR. HAWA: I don't want to belabor the
14 point, but wouldn't it then say, "Did you change
15 the carrier of these customers" --

16 MR. SHOOK: I am not suggesting that
17 the question couldn't have been worded in some
18 different fashion. I am trying to give you what
19 I think is a reading of that question.

20 MR. HAWA: Fair enough.

21 MR. SHOOK: In a way, it's all

1 academic. Because the point is, at the time this
2 letter was received by Business Options, what
3 effort was made to answer the question as they
4 understood it?

5 MR. HAWA: Okay.

6 WITNESS: I think that Miss Dennie
7 did -- or we did have a brief discussion on this,
8 and I think we read the question as, "Are you
9 guilty of the complaints as they are filed?" And
10 I think our response was, "No, we are not guilty
11 of what they are saying we did."

12 BY MR. SHOOK:

13 Q. Okay. And with the understanding,
14 though, that you -- if I am reading this right
15 and understanding all the back and forth that we
16 have had here, you had not actually seen whatever
17 complaints may have been filed by the 20
18 individuals that were listed?

19 A. That would be correct. Nor did we, at
20 least to my knowledge, go back and pull the
21 customer's service information to determine when

1 they were switched, whether they weren't
2 switched. So I think we took this question as,
3 "Are you guilty of doing what these customers are
4 saying you are guilty of." Anyway, that's my
5 recollection. Again, you can ask Miss Dennie.
6 She was the one that offered that response.

7 Q. Okay. But that would be without
8 actually knowing what it was these people had
9 really complained about.

10 A. She may have look at it. I don't
11 recall ever looking at those complaints.

12 Q. All right. So these are things we
13 would have to explore more in depth with her.

14 A. Yes.

15 Q. But in terms of your involvement, in
16 looking at what it was the FCC was asking for,
17 basically I suppose first you can provide us with
18 your own understanding of what you thought the
19 FCC was asking for.

20 A. Right.

21 Q. And then -- let me just focus on that

1 first to make sure --

2 A. I don't think, at least as far as my
3 participation, we were trying to be vague or
4 evasive. I guess my thought on reading this was,
5 you know, are you guilty of what these customers
6 are saying that you did. And to that, I would
7 say no, we are not. So during this period of
8 time, that response would be logical with that
9 line of thought.

10 The way we are looking at it today --
11 if you are just asking, did we switch these
12 customers. Well, yeah, now I have looked at the
13 customer service on each of these -- not the ones
14 from Maine, but the eight that you guys asked all
15 those interrogatories about --

16 Q. Right.

17 A. -- and we did switch their service
18 during that time period. I believe it in April.

19 Q. After April 1 of 2002.

20 A. Yeah. Again, this is hindsight, but
21 we had been in business for merely ten or eleven

1 years, I guess, at this point and just didn't
2 have that much communication back and forth with
3 the FCC, except for some informal complaints now
4 and then. And Mr. Brzycki's department always
5 sent off letters. And, I mean, there weren't
6 that many of them, but I don't think that we've
7 ever received anything like this from the FCC
8 before. So this was something new for us, and
9 the significance that was put on it was that of
10 just an informal complaint. It wasn't, "Okay,
11 here's this big document from the FCC. We need
12 to huddle around and take a good look at this,
13 and let's get off a great response, and let's get
14 them whatever they want." It was more like,
15 "Hey, we got this notice from the FCC. I better
16 respond to it." And I said, "Okay, go ahead and
17 you respond to it." And later, "Hey, Kurtis,
18 here's what we are going to send to them."
19 "Okay, it looks okay to me." That was the flow
20 of it. It wasn't, "Wow, you know what -- we've
21 got a situation here. What's going on here?"

1 And again, I think that goes back to having a
2 pretty clean record with the Commission over the
3 past ten or eleven years and not having things
4 like this come up. You know, we had the
5 situation with Vermont, and it almost came
6 across, I guess, as -- well, Vermont sent
7 something off to the FCC, and the FCC is just
8 following up on whatever the Vermont people had
9 already done. It was almost like it was a done
10 thing with Vermont, and the FCC was just
11 following up with this. But, anyway, we learned
12 a lesson, for sure.

13 Q. Although, in this case, the
14 complainants were all from the State of Maine.

15 A. Maine, okay.

16 Q. I mean, I know they are close to each
17 other, but --

18 A. Well, we were working with Maine,
19 also.

20 Q. All right. So the gist of your answer
21 is that in terms of focusing on what it was the

1 FCC was asking, you personally did not devote the
2 kind of attention which in hindsight you wish you
3 had?

4 A. Yes.

5 Q. But in terms of actually answering the
6 letter in the first instance, that was Shannon
7 Dennie's responsibility?

8 A. Yes.

9 Q. Now, was it the responsibility of
10 anybody other than or in addition to Shannon
11 Dennie?

12 A. Potentially, Miss Green may have been
13 helping her with this.

14 Q. But in terms of response to question
15 number three and its various sub-parts, I take it
16 from the conversations -- you know, the
17 conversation that we had earlier today, that it
18 would be fair to say that your answer to this
19 question today would be decidedly different than
20 what it was in December, 2002 -- that in fact the
21 persons who are named here had their

1 long-distance service changed after April 1,
2 2002?

3 A. Well, specifically, the eight that we
4 have been focused on. On the other ones, we
5 would --

6 Q. Right. Five of whom are common to
7 this letter, and three of whom are from other
8 states.

9 A. Okay. So we would investigate every
10 one of these, and we would prepare a detailed
11 response. If we ever send out another response
12 like this, I will resign. So I don't know what
13 else to tell you. It was inappropriate.

14 Q. Okay. I think we have beaten question
15 number three to death. With respect to question
16 number four, that asks for telemarketing scripts.

17 A. Uh-huh.

18 Q. And the response reflects
19 telemarketing sales scripts along with
20 instructions to telemarketers are attached.

21 A. Okay.

1 Q. And there appears to be something that
2 reads -- or there is something that reads,
3 rather, "Policy letter, Buzz Telecom," and then
4 it has two dates; one being April 24, 2002, and
5 then in bigger letters it has -- or in bigger
6 font, rather, it has May 15, 2002, and then there
7 is a capital "R" after that.

8 A. Uh-huh.

9 Q. Are you looking at that page?

10 A. Yeah.

11 Q. And it shows your name down at the
12 bottom. It's not signed, but it shows your name,
13 and underneath it has, "COB." The standard sales
14 pitch, is this something that -- well, then there
15 is a second page that follows, and then there are
16 also two additional pages that follow after that
17 deal with how to handle objections.

18 A. Yes.

19 Q. The information that appears here --
20 is that accurate and responsive as far as you
21 understand it with respect to question number

1 four? And take whatever time you need in order
2 to answer that.

3 A. If I write something like that, I sign
4 it or initial it down at the bottom. It looks
5 like what I authored, but there should be a copy
6 somewhere that's signed.

7 Q. Now, in terms of the next page, the
8 one that has at the top, "Standard Sales
9 Pitch" --

10 A. Uh-huh.

11 Q. -- and again it has two dates; April
12 24, 2002 and May 15, 2002 --

13 A. Uh-huh.

14 Q. -- and then there is a smaller letter
15 "R" after that. And then down at the bottom, it
16 appears to bear the signature of Katrina Reillo?
17 I mean, I don't know how you pronounce the last
18 name.

19 A. I don't know, either.

20 Q. R-E-I-L-L-O.

21 A. Uh-huh.

1 Q. Director of sales training.

2 A. Yes.

3 Q. First of all, who is Katrina?

4 A. She was a sales rep for about a year
5 for us and did a nice job and wanted to progress
6 in the company and requested to be posted as
7 director of sales training. And we promoted her
8 up right about this period of time.

9 Q. How long did she hold that position?

10 A. Probably -- I think she probably got
11 promoted in the spring of 2002, so this would
12 have been probably right around when she was
13 promoted.

14 Q. Is she currently with the company?

15 A. Yes.

16 Q. In what capacity is she with the
17 company now?

18 A. She does pretty much the same thing.

19 Q. She's still the director of sales
20 training or something akin to that?

21 A. Yes.

1 Q. This particular standard sales pitch,
2 do you know who it was who actually wrote this?

3 A. I think it was probably Katrina.
4 Usually in the past, I wrote most of the sales
5 pitches for our company.

6 MR. HAWA: Can we go off the record
7 for a second?

8 MR. SHOOK: Sure.

9 (Discussion was held off the record.)

10 MR. SHOOK: Back on the record.

11 BY MR. SHOOK:

12 Q. So the particular standard sales pitch
13 that Katrina Reillo actually signed is something
14 that you believe or you understand that she
15 authored?

16 A. Yes.

17 Q. Was this a sales pitch that anyone in
18 a position above Katrina Reillo had to approve or
19 did in fact approve?

20 A. I would have had to approve this.

21 Q. And do you recall having done so?

1 A. I think I did. I think I on wrote a
2 pitch on April 24, 2002, and she revised it on
3 this date and maybe put in a few more words or
4 something.

5 Q. Was this sales pitch sent out by
6 Business Options to any LEC for its review and/or
7 approval?

8 A. Not that I am aware of.

9 Q. The reason I asked that is you had
10 indicated at earlier points in time that there
11 were sales pitches that had occurred that you had
12 sent out to LEC's --

13 A. Yes.

14 Q. -- and that LEC's had in some
15 instances even modified the sales pitch?

16 A. Yes.

17 Q. But that did not occur with respect to
18 this sales pitch?

19 A. Not that I know of. That would have
20 fallen under Mr. Brzycki's duties. And if
21 wasn't, it should have been just as a matter of

1 agreement with our billing companies.

2 Q. Oh. But it was part of the agreement
3 with the billing company that if there was a
4 change in the sales pitch, that it would be sent
5 to the LEC's for their review?

6 A. I don't know if that's a condition of
7 the agreement or not. I did say that, but I
8 don't recall seeing that in the agreement with
9 USBI. It seems like if we sent them one -- now,
10 this is opinion, not a statement of fact. But if
11 we had to send one to get approval initially or
12 updating, it should be sent.

13 Q. Okay. But as far as this sales pitch
14 is concerned, it was not sent to anyone outside
15 of the company?

16 A. Correct.

17 Q. With respect to the response prepared
18 for question five, if you could take a look at
19 the question and then look at the response.

20 A. Okay.

21 Q. My question is whether the response is

1 accurate so far as you know.

2 A. What is stated in response to number
3 five is accurate, but I don't think it answers
4 the question in full that was posed by the
5 Commission. In 2002, at some point we did use an
6 independent telemarketing company.

7 Q. In addition to your own employees?

8 A. Yes. We didn't do that very long. I
9 think it was toward the end of 2002 that we did
10 that. So this would be missing information. It
11 would be missing that we didn't send the
12 telemarketing contracts.

13 Q. Or the organizational chart of the
14 telemarketing operations?

15 A. Right.

16 Q. Or the ratio of supervisors to
17 telemarketing employees? Well, actually, it
18 indicated there were 40 employees and three
19 managers, so --

20 A. Yeah.

21 Q. In other words, the information that

1 appears here in response to number five is
2 accurate as far as it goes, but there were
3 additional pieces of information that should have
4 been provided in order to make the response
5 complete?

6 A. Yes, it's incomplete.

7 Q. Okay. With respect to question six,
8 if you would look at the response, and then tell
9 me whether or not the response is accurate.

10 A. Again, I think we should have given
11 you a couple pages in response, and we could have
12 given you an example of what the tape auditor is
13 looking for and what they write up and what's
14 done with that. That's part of our process -- if
15 somebody is doing something they shouldn't be
16 doing, whether it be making personal phone calls
17 or whatever it is that they are doing. So we
18 gave you a one paragraph answer, and it could
19 have probably been a two or three-page answer
20 with attachments.

21 Q. So it would be fair to say that so far

1 as you know, no one in Business Options, Inc.
2 actually look at Section 258 of the Act or the
3 rules that are referenced here in terms of
4 framing the answer that was provided to us?

5 A. Correct.

6 Q. Now, with respect to questions seven
7 through eleven, there is a reference to a
8 document prepared by Gene Chill. It's not
9 signed, but is it your understanding that Mr.
10 Chill in fact prepared this document?

11 A. It is my understanding, yes.

12 Q. Would it be typical of him, you know,
13 to indicate he is signing it "warmly?"

14 A. You are going to have a nice time with
15 him on -- what is it -- Wednesday or Thursday.

16 Q. We can gather from that that he has a
17 sense of humor.

18 A. Well, it's just Gene -- he's
19 compassionate.

20 Q. Compassionate, okay.

21 A. If you are asking if that was a joke,

1 it wasn't a joke. That's just Gene.

2 Q. Do you have any -- Did Mr. Chill speak
3 with you at all about the responses that he
4 prepared to questions seven through eleven?

5 A. No, I don't recall ever speaking to
6 Mr. Chill. Well, hold on --

7 Q. It's getting toward the end of the
8 day; we understand.

9 A. Yeah. I do recall seeing this letter,
10 but I don't know if I saw it a month ago, two
11 months ago. I don't think I saw this letter
12 prior to it being sent to the Commission.

13 Q. Sitting here right now, you don't have
14 a recollection of having reviewed this letter
15 with Mr. Chill prior to it being sent to the FCC?

16 A. No. Question number eight asks about
17 AT&T. We used to have that problem in the early
18 1990's or maybe mid 1990's. We actually, at one
19 point, had it in our sales scripts, "Do you
20 understand we are not AT&T?" But over the last
21 four or five years, it has really not come up,

1 and I think that has to do with the
2 diversification of the industry. I think our
3 verification scripts say something about, "You
4 understand we are not your local phone company,
5 and we are not AT&T." I think it says that.

6 Q. That takes us through questions seven
7 through eleven. So far as I can tell, question
8 twelve wasn't answered at all.

9 A. Um --

10 Q. I have been advised by my co-counsel
11 that there was a separate letter that was sent
12 indicating that state complaints were going to be
13 sent by separate cover.

14 A. Okay.

15 Q. Do you have any knowledge as to
16 whether in fact that was done?

17 A. No, I don't.

18 MR. SHOOK: Give us one minute.

19 (A short break was taken.)

20 MR. SHOOK: Mr. Kintzel, I have no
21 further questions.